

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA**

UNITED STATES OF AMERICA,

Plaintiff,

vs.

JOHN E. RYAN,

Defendant.

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CASE NO. 8:03CR7

**MEMORANDUM
AND ORDER**

This matter is before the Court on the Report and Recommendation (Filing No. 57) issued by Magistrate Judge F.A. Gossett recommending that the Defendant's motion to dismiss for want of prosecution pursuant to Federal Rule of Criminal Procedure 48(b)(3) be granted (Filing No. 57). The Assistant United States Attorney has no objection to the Report and Recommendation. 28 U.S.C. § 636(b)(1)(C); NECrimR 57.3(a). (Filing No. 56.)

The motion is based on delays in conducting the Defendant's competency evaluation. The record shows that the Defendant is unlikely to become competent to stand trial.

Pursuant to 28 U.S.C. § 636(b)(1)(C) and NECrimR 57.3, the Court has conducted a de novo review of the record. Because Judge Gossett fully, carefully, and correctly applied the law to the facts, the Court adopts the Report and Recommendation in its entirety.

IT IS ORDERED:

1. The Magistrate Judge's Report and Recommendation (Filing No. 57) is adopted in its entirety;

2. The Defendant's motion to dismiss (Filing No. 55) is granted;
3. This case is dismissed with prejudice; and
4. A separate Judgment will issue.

DATED this 30th day of August, 2005.

BY THE COURT:

s/Laurie Smith Camp
United States District Judge